

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WARREN DIAMOND and FAITH DIAMOND,
as the Trustee of the Diamond Trust,

Plaintiffs,

21-cv-2604 (PKC)

-against-

ORDER

500 SLD LLC and SCOTT DIAMOND,

Defendants.

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CASTEL, U.S.D.J.

The trial of this action is set for February 5, 2024 at 10:00 a.m. in Courtroom 11D as first backup to United States v. Juan Orlando Hernandez, 15-cr-379 (PKC).

The Final Pretrial Conference is adjourned from November 15 to November 29, 2023 at 2 p.m. All pending motions and all issues pertaining to the trial of this action are possible subjects of discussion.

It appears that the issues of specific performance, injunctive relief, and liquidated damages in the event the jury finds a breach are reserved to the Court. Any party taking a contrary position shall set forth the legal authority for its position by November 21, 2023. The unambiguous terms of the Diamond Trust and the December 12, 2012 agreement are matters for the Court to interpret and construe. By November 21, 2023, the parties shall state insofar as material to the claims or defenses in this action whether any provision of the Diamond Trust or the December 12, 2012 agreement is ambiguous and, for each purported ambiguity, the party shall quote the ambiguous provision, state the possible interpretations of the provision, state its

interpretation of the provision, and identify any parol evidence the party would offer with respect to the provision.

The verdict forms proposed by each side are wholly deficient. There is one claim for breach of contract pled in the Complaint, for which the plaintiffs claim there were 20 separate breaches. The questions posed to the jury are not presented in the abstract but are to be read in the context of the Court's instructions to the jury. It is therefore not necessary to restate principles in the Court's jury instructions. Absent a stipulation to the contrary, jury verdicts in federal court must be unanimous. Fed. R. Civ. P. 48(b). The parties shall meet and confer on a revised verdict form and shall submit a proposed revised form and any dispute relating thereto, including support for their position, by November 21, 2023.

The Court also intends to impose time limits, measured in hours, on the presentation of evidence. Each side shall submit its proposals by November 21, 2023.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
November 14, 2023